

14 August 2009

Australian Government

IP Australia

Discovery House, Phillip ACT 2606  
PO Box 200, Woden ACT 2606  
Australia  
Phone: 1300 651 010  
International Callers: +61-2 6283 2999  
Facsimile: +61-2 6283 7999  
Email: assist@ipaaustralia.gov.au  
Website: www.ipaaustralia.gov.au

Spruson & Ferguson  
GPO Box 3898  
SYDNEY NSW 2001  
Australia

Your Ref: 706829:SDB

Examiner's report no. 2 on patent application no. 2003259538  
by NDS Limited

Last proposed amendment no. 2

Dear Madam/Sir,

Thank you for the reply of 27 July 2009 to the last report. My report is based on the specification as if amended by the statement of proposed amendments filed with that reply and dated 24 July 2009. I have considered it and believe that there are lawful grounds of objection to the application as proposed to be amended. These grounds of objection are:

D1 WO 2002/046994 A1 (EMOTION INTELLIGENCE SOLUTIONS) 13 June 2002\*

\* Cited against the corresponding European application EP 03797496. I apologise for any inconvenience that raising a new citation at this stage may have caused.

2. The specification does not comply with Section 40(4) because the claims do not relate to one invention only. It is considered that there are different inventions based on the following features that distinguish the claims from each other:
  - Claims 1-12, 17-21 and 23-26. It is considered that receiving an AIM at a mobile device, sending the AIM to a CDU, storing the AIM in the CDU and displaying a selected content item on the CDU comprises a first distinguishing feature.
  - Claims 13-16 and 22. It is considered that accumulating content item display points for each of a plurality of display point categories and choosing a content item for display based at least in part on a comparison between a point total for one of the display point categories, comprises a second distinguishing feature.

Unity of invention is only fulfilled when there is at least one "special technical feature" present in the claims. This is a feature that both:

- provides a technical relationship among all the claims; and,
- makes a contribution over the prior art.

In the above groups of claims, the identified distinguishing features may have the potential to make a contribution over the prior art but are not common to all the claims and therefore cannot provide the required technical relationship and any common features that are present are considered to be known in the art. Therefore there is no special technical feature present in the claims and the requirements for unity of invention are consequently not satisfied *a priori*

Due to the lack of unity, the search and report has been limited to the invention defined by claims 1-12, 17-21 and 24-26. When a response to the objection is received, the search area may be extended and the report may be expanded upon.

2. Claims 1-12, 17-21 and 24-26 of the present application are not novel (and also lack an inventive step) in the light of prior art document D1 that discloses all the features of the invention claimed. For example, regarding claim 1, D1 discloses:

*Receiving an AIM at a first mobile device:* see page 3 lines 4-9 where the set-top box transmits the advertisement and information to the portable information processing apparatus.

*Sending the AIM from the first mobile device to a CDU and storing the AIM in the CDU:* see page 3 lines 26-28 where the advertisement is sent from one portable device to another. The receiving unit being capable of content display and therefore falling within the scope of a CDU.

*Selecting at least one content item from among a plurality of content items based at least in part, on at least one stored AIM, the stored AIM being stored in the CDU and displaying the selected content item on the CDU:* see page 3 lines 11-14 where the display on the portable device is used to access content.

Regarding claim 7, D1 discloses:

*An entitlement store storing an entitlement associated with a content item:* see page 2 lines 21 – 22 where the advertisement/information management server stores the advertisements and information.

*A communication unit operative to receive the entitlement from the entitlement store and send the entitlement to a display unit:* see page 2 lines 22-25 where the set-top box receives the advertisement and information and the set-top box has a display means for displaying the advertisement.

Regarding claim 9, D1 discloses:

*An AIM receiver operative to receive at least one AIM from an AIM distributing authority:* see page 2 lines 22-25 where the set-top box receives the advertisement and information from the management server.

*An AIM storage unit for storing the at least one received AIM:* see page 2 line 23 where the set-top box has storage for the advertisements.

*An AIM dispenser operative to dispense the at least one AIM to a mobile device operative to receive AIMs:* see page 3 lines 4-9 where the set-top box transmits the advertisement and information to the portable information processing apparatus.

Regarding claim 10, D1 discloses:

*An advertisement identification message (AIM) receiver for receiving at least one AIM from an AIM source external to the mobile device:* see page 3 lines 4-6 where the set-top box transmits the advertising codes to the portable devices.

*An AIM storage unit for storing the at least one received AIM:* see for example, page 3 line 29 – page 4 line3.

*An AIM sender for sending the at least one stored AIM to a content display unit (CDU) external to the mobile device:* see page 3 lines 6-9 where the portable

apparatus transmits to the set-top box advertising codes. The set-top box being capable of content display via display devices (see page 2 lines 22-25).

Regarding claim 12, D1 discloses:

*An advertisement identification message (AIM) receiver for receiving at least one AIM from a mobile device:* see page 3 lines 26-28 where the advertisement is sent from one portable device to another. The receiving unit being capable of content display and therefore falling within the scope of a CDU.

*An AIM storage unit for storing the at least one received AIM:* see page 3 lines 26-28.

*A content item selector for selecting at least one content item from among a plurality of content items based, at least in part on at least one AIM stored in the AIM storage unit:* see page 3 lines 11-14.

*A display for displaying the selected content item:* see page 3 lines 11-14 where the display on the portable device is used.

You have until 10 September 2010 to overcome all my objection(s) otherwise your application will lapse.

You will need to pay a monthly fee for any response you file after 12 months from the date of the first report.

You will also need to pay any annual continuation fees that apply. These will normally be first due five years from the filing date. Please note however that earlier commencement dates apply for divisional applications.

Information about fees may be obtained by phoning 1300 651 010.

Yours faithfully,

ANDREW ELLETT  
Patent Examination B  
C4 - Electronics  
Phone: (02) 6225 6120